

In the United States Court of Federal Claims

OFFICE OF SPECIAL MASTERS

Filed: August 25, 2017

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KARIE N. DUVERNAY, as Natural
Guardian and Legal Representative
Of W.R.D., a minor,

Petitioner,

v.

SECRETARY OF HEALTH
AND HUMAN SERVICES,

Respondent.

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No. 16-582V

Special Master Sanders

Attorneys' Fees and Costs; Reasonable
Amount Requested.

Nancy R. Meyers, Ward Black Law, Greensboro, NC, for Petitioner.

Jennifer L. Reynaud, United States Department of Justice, Washington, DC, for Respondent.

DECISION AWARDING ATTORNEYS' FEES AND COSTS¹

On May 16, 2016, Karie N. Duvernay ("Petitioner"), as the natural guardian and legal representative of W.R.D., filed a petition for compensation pursuant to the National Vaccine Injury Compensation Program.² 42 U.S.C. §§ 300aa-10 to -34 (2012). Petitioner alleged that W.R.D. suffered from synovitis as a result of the Diphtheria-Tetanus-acellular-Pertussis ("DTaP"), Inactivated Polio Virus ("IPV"), and Hepatitis B ("Hep B") vaccines administered on February 6, 2014, and the Haemophilus influenza b ("Hib"), Pneumococcal conjugate ("PCV"), and rotavirus vaccines administered on March 11, 2014. Decision 1, ECF No. 34. On August 4, 2017, the undersigned issued a decision awarding compensation to Petitioner pursuant to the parties' joint stipulation. *Id.*

¹ This decision shall be posted on the United States Court of Federal Claims' website, in accordance with the E-Government Act of 2002, 44 U.S.C. § 3501 note (2012) (Federal Management and Promotion of Electronic Government Services). In accordance with Vaccine Rule 18(b), a party has 14 days to identify and move to delete medical or other information that satisfies the criteria in § 300aa-12(d)(4)(B). Further, consistent with the rule requirement, a motion for redaction must include a proposed redacted decision. If, upon review, the undersigned agrees that the identified material fits within the requirements of that provision, such material will be deleted from public access.

² The Program comprises Part 2 of the National Childhood Vaccine Injury Act of 1986, 42 U.S.C. §§ 300aa-10 et seq. (hereinafter "Vaccine Act," "the Act," or "the Program"). Hereafter, individual section references will be to 42 U.S.C. § 300aa of the Act.

On August 17, 2017, Petitioner filed an application for attorneys' fees and costs. Mot. Att'ys' Fees & Costs, ECF No. 38. Petitioner requested \$19,920.50 in attorneys' fees and \$434.50 in costs, for a total of \$20,355.00. *Id.* at 1. Petitioner averred that she incurred no personal costs in the prosecution of this case. ECF No. 38-1.

Respondent submitted a Response to Petitioner's motion on August 24, 2017. Resp't's Resp., ECF No. 39. Respondent indicated that "[t]o the extent the Special Master is treating [P]etitioner's request for attorneys' fees and costs as a motion that requires a response from [R]espondent[,] . . . Respondent is satisfied the statutory requirements for an award of attorneys' fees and costs are met in this case." *Id.* at 2. Respondent recommended that the undersigned exercise her discretion and determine a reasonable award for attorneys' fees and costs. *Id.* at 3. On August 24, 2017, Petitioner submitted a Reply. Pet'r's Reply, ECF No. 40. Petitioner agreed with Respondent's "recommendation that Special Master Sanders exercise her discretion and determine a reasonable award for attorneys' fees and costs in this case." *Id.*

The undersigned has reviewed the detailed records of time and expenses of Petitioner's counsel, and finds that they are reasonable. In accordance with the Vaccine Act, 42 U.S.C. § 300aa-15(e) (2012), the undersigned finds that Petitioner is entitled to attorneys' fees and costs. **Accordingly, the undersigned hereby awards the amount of \$20,355.00,³ in the form of a check made payable jointly to Petitioner and Petitioner's counsel, Nancy R. Meyers, of Ward Black Law.⁴** In the absence of a motion for review filed pursuant to RCFC Appendix B, the clerk of the court shall enter judgment in accordance herewith.⁵

IT IS SO ORDERED.

s/Herbrina D. Sanders
Herbrina D. Sanders
Special Master

³ This amount is intended to cover all legal expenses incurred in this matter. This award encompasses all charges by the attorney against a client, "advanced costs" as well as fees for legal services rendered. Furthermore, § 15(e)(3) prevents an attorney from charging or collecting fees (including costs) that would be in addition to the amount awarded herein. *See generally Beck v. Sec'y of Health & Human Servs.*, 924 F.2d 1029 (Fed. Cir. 1991).

⁴ Attorney Nancy Meyers practices in Greensboro, North Carolina. Although forum rates are applied to the requested fees in this case, I do not reach the question of whether Ms. Meyers is entitled to the forum rate. This decision does not constitute such a determination.

⁵ Entry of judgment can be expedited by each party's filing of a notice renouncing the right to seek review. Vaccine Rule 11(a).